

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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OCT 12 2004

Federal Communications Commission
Office of Secretary

In the Matter of

Amendment of Sections 73.202(b),
Table of Allotments,
FM Broadcast Stations,
(Grass Valley and
Citrus Heights, California)

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MB Docket No. 00-____
RM-_____

To: Office of the Secretary
Attention: Chief, Audio Division
Media Bureau

PETITION FOR RECONSIDERATION

Educational Media Foundation ("EMF"), licensee of noncommercial educational station KLVS(FM), Channel 257B1, Grass Valley, California, by counsel and pursuant to Section 1.106 of the Commission's Rules, hereby petitions for reconsideration of the Commission's decision to return the Petition for Rulemaking filed by EMF in the above-referenced proceeding. See Letter to David D. Oxenford, Esq. from John A. Karousos, Assistant Chief, Audio Division, Media Bureau (dated September 9, 2004) ("Letter Decision").¹ In the Letter Decision, the Commission returned the Petition for Rulemaking filed by EMF to (i) substitute Channel 258A for Channel 257B1, (ii) reallocate Channel 258A from Grass Valley to Citrus Heights, California, and (iii)

¹ This petition is timely filed within 30 days of the date of dismissal.

modify the license of KLVN(FM) to specify Channel 258A at Citrus Heights.² The Commission returned the Petition due to its purported failure to comply with Section 73.315(a) of the Commission's Rules, which requires that a proposed transmitter site be chosen in such a manner that the proposal will provide signal coverage with a field strength of at least 70 dBu over the entire principal community to be served. As demonstrated herein, the reallocation proposal complies with Section 73.315(a) of the Commission's rules and is in the public interest. Accordingly, the Commission should reconsider its dismissal, reinstate the petition, and promptly initiate EMF's reallocation request.

DISCUSSION

EMF's proposed reallocation of Channel 258A from Grass Valley to Citrus Heights, California complies with Section 73.315(a) of the Commission's Rules. See Engineering Statement, attached hereto as Exhibit A, and Engineering Statement filed with the initial Petition. Accordingly, the Bureau must reconsider its return of EMF's Petition.

To demonstrate coverage of the community of Citrus Heights, EMF used a propagation methodology which takes into account the actual terrain in the area around the proposed Citrus Heights transmitter site. Although the Commission typically relies upon average terrain calculations in allocation proceedings, the Commission has provided an exception to this general rule and permits the use of an actual terrain analysis provided that the petitioner demonstrates it has (1) reasonable assurance of the availability of a specific site, and (2) FAA approval for that site.³ Both conditions are satisfied in this case. Specifically, EMF proposes to reallocate Channel

² The Petition also requested the new allocation of Channel 257A to Colfax, California. EMF, however, has chosen not to pursue the new allocation of Channel 257A to Colfax at this time.

³ See Woodstock and Broadway, Virginia, 3 FCC Rcd 66348 (1988) ("Woodstock") ("Although we reiterate that the assumption of uniform terrain at the allocation stage is generally appropriate, we believe

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258A to Citrus Heights at an existing transmitter site, which is currently used by its own FM translator station K256AG, Clarksville, California, and has FAA approval for this site.

Accordingly, use of actual terrain to demonstrate city-grade service compliance is appropriate.

EMF's engineering calculations are consistent with the policies set forth in the Woodstock decision.⁴ Using calculations which utilize actual terrain averages, it is apparent that KLVS will provide a 70 dBu signal over the entire community of Citrus Heights. Furthermore, EMF has also demonstrated that KLVS can operate from the proposed site consistent with all separation requirements to existing and proposed stations and allotments.⁵

Accordingly, EMF's proposed reallocation of KLVS complies with the Commission's technical requirements. Furthermore, the public interest benefits in this particular case are compelling and support grant of EMF's reallocation request. Specifically, grant of EMF's requested reallocation will not only ultimately provide the community of Citrus Heights with its first local service, but will also result in a net increase in service to 1,211,798 people, or a 764.4% gain, in population served, thereby making a more efficient use of the FM spectrum.⁶

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it would elevate form over substance to apply that assumption here, where the petition has taken the affirmative steps to allow us to evaluate a specific site..."); see also Freemont and Sunnyvale, CA, 16 FCC Rcd 20530 (2001) and Tullahoma, TN and Madison, AL, 15 FCC Rcd 6189 (2000).

⁴ In Woodstock, the Commission stated that petitioners wishing to take advantage of the exception to its normal assumption of uniform terrain should submit: (1) a full showing as to the terrain between the proposed site and their community of license, (2) the same terrain data for eight radials from the transmitter site, and (3) a statement indicating that they have reasonable assurances of site availability for the proposed site. EMF has satisfied these requirements.

⁵ See Exhibit A and Engineering Statement, filed September 17, 2003.

⁶ See Engineering Statement, filed September 17, 2003, at 2. In its Petition, EMF also demonstrated that Citrus Heights has the social, economic, and cultural characteristics of a community, is independent from


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CONCLUSION

EMF's reallocation proposal complies with Section 73.315(a) of the Commission's rules and will result in a preferential arrangement of allotments by permitting KLVS to provide a first local aural transmission service to a community currently without such service without depriving Grass Valley of local transmission service. Accordingly, the Bureau must reconsider its dismissal of EMF's Petition for Rulemaking and promptly initiate the rule making requested in its Petition to amend Section 73.202(b) of the Commission's rules, the Table of Allotments for FM Broadcast Stations, to substitute Channel 258A for Channel 257B1, reallocate Channel 258A from Grass Valley to Citrus Heights, California, and modify KLVS's license accordingly.

Respectfully submitted,

EDUCATIONAL MEDIA FOUNDATION

By: 
David D. Oxenford
Amy L. Van de Kerckhove

Its Attorneys

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Dated: October 12, 2004

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the city of Sacramento, and is fully deserving of a first local aural transmission service. See Petition at 5 - 11.

EXHIBIT A

DECLARATION

ENGINEERING STATEMENT

Educational Media Foundation, licensee of FM Station KLVN on Channel 257B1 at Grass Valley, California has prepared this Engineering Statement in support of a Petition for Rule Making to amend the Table of FM Allotments, Section 73.202(b), to allocate Channel 258A to Citrus Heights, California (with a 7 kilometer site restriction to the south), as its first local aural transmission service. It is proposed to amend the Table of FM Allotments as follows:

<u>Community</u>	<u>Present Allocation</u>	<u>Proposed Allocation</u>
Grass Valley, CA	231A, 257B1, 277A	231A, 277A
Citrus Heights, CA	--	258A

As the proposed change is mutually exclusive with its current license, Educational Media Foundation proposes to change the city of license for KLVN(FM) from Grass Valley, California to Citrus Heights, California and downgrade from Class B1 to Class A in accordance with Section 1.420(i) of the Commission's rules. The reference coordinates of Citrus Heights are as follows:

NAD-27

North Latitude: 38-41-30

West Longitude: 121-17-12

Educational Media Foundation has located a transmitter site that meets the spacing requirements and the selected site is identified as follows:

NAD-27

North Latitude: 38-38-37

West Longitude: 121-05-27

The site is currently used by Educational Media Foundation translator K256AG, Clarksville, California. Educational Media Foundation proposes to utilize the same tower for KLVN, should this proposal be granted.

Citrus Heights

According to the United States Department of Commerce, Bureau of Census, the 2000 population figure for Citrus Heights, California is 85,071 people. The city (which was incorporated in 1997) lies in Sacramento County, with a county population of 1,223,499. Allocating Channel 258A to Citrus Heights will provide coverage within the 70dBu contour to 513,466 persons, and within the 60dBu contour to 1,394,201 people (an area of 3,098.27 sq. km).

The present KLVS Class B1 facility covers a population, within the 60dBu contour, of 182,403 people within an area of 5,349.99 sq. km. Compared to the proposed facility at Citrus Heights, the change in facilities will provide a 764.4% increase in population and an overall decrease in area of 42.1%.

Moving KLVS(FM) to Citrus Heights, California, and changing from Class B1 to Class A would not only provide service to a larger population, but would make a more efficient use of the FM spectrum.

Table I is an FM channel study for Channel 258A from the reference coordinates for the proposed city of license, Citrus Heights, California. As shown, there is a 15.37 kilometer short spacing, therefore we are requesting this allotment be granted with the requirement that the station be located a minimum of 15.37 kilometers east of Citrus Heights.

Table II is an FM channel study for Channel 258A from the specified antenna site east of Citrus Heights. As shown, Channel 258A from this site meets the requirements of Section 73.207 of the Rules and Regulations.

Tables III and IV show the predicted distance to the 60 dBu contours for Citrus Heights and the current KLVS at Grass Valley with associated population and coverage area figures.

Exhibit I is a map showing the 70dBu and 60dBu contours of the proposed KLVS operation on Channel 258A and the city of license, Citrus Heights, California. Citrus Heights lies within the proposed 70dBu contour, thereby meeting the requirements of Section 73.315 of the Rules and Regulations.

CONCLUSION

The petitioner affirms its intention to file an application to modify KLVS for operation on Channel 258A at Citrus Heights, if it is allotted, and, if authorized, to build the requested facility promptly.

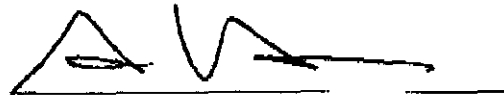
It is believed that all methods employed in making the determinations contained within this Engineering Statement were in accordance with applicable FCC Rules and Regulations and good engineering practice.

For each FM station presented in these exhibits, terrain elevation data from three to sixteen kilometers on radials spaced at one-degree azimuthal intervals starting at True North were extracted from the computerized thirty-second point elevation database version of Elevation Data for North America, available at the Department of Commerce, National Geophysical Data Center, National Oceanic and Atmospheric Administration. A total of 131 points along each radial were linearly interpolated according to section 73.312(d). For HAAT calculations in Tables III and IV, 8 radials were utilized.

The height above average terrain along each of the 360 radials was computed by averaging the elevations between three and sixteen kilometers below the antenna radiation center in accordance with section 73.313(d)(3).

The locations of the 60 dBu F(50,50) service contours were calculated according to the computer methods outlined in F.C.C. publication PB-249144, Field Strength Calculations for TV and FM Broadcasting. The computer methods use digitized data taken directly from the graph of section 73.333 Figure 1. Intermediate values are obtained using bivariate interpolation techniques for surface fitting.

I declare under penalty of perjury that the foregoing is true and correct.



Sam Wallington
Director of Engineering
Educational Media Foundation
October 12, 2004

TABLE 1
Channel 258A at Citrus Heights Reference Coordinates

REFERENCE
38 41 30 N
121 17 12 W

CLASS - A
Current Spacings
Channel 258 - 99.5 MHz

DISPLAY DATES
DATA 09-25-04
SEARCH 10-11-04

Call	Channel	Location	Dist	Azi	FCC	Margin
KLVS.C	CP -N 257B1	Grass Valley	CA 67.52	24.2	96.0	-28.48
KNTI	LTC 258B	Lakeport	CA 162.63	288.1	178.0	-15.37
KRCXFM	LIC 260B	Marysville	CA 73.40	321.3	69.0	4.40
KJOY.C	CP -Z 257A	Stockton	CA 77.70	180.1	72.0	5.70
KJOY	LIC-Z 257A	Stockton	CA 77.70	180.1	72.0	5.70
KVYN	LIC-Z 257A	St. Helena	CA 95.25	252.2	72.0	23.25
KXJZ	LIC-D 205B	Sacramento	CA 50.09	202.1	15.0	35.09
KFRCFM	LIC 259B	San Francisco	CA 150.11	222.3	113.0	37.11
KQOD	LIC 261A	Stockton	CA 77.86	175.3	31.0	46.86
KARA	LIC-N 256A	Williams	CA 80.37	304.2	31.0	57.37
KXJS.C	CP -D 204B1	Sutter	CA 73.40	321.3	12.0	61.40
KLOKFM	LIC 258B	Greenfield	CA 247.22	180.2	178.0	69.22
KTHXFM	LIC-Z 261C1	Dayton	NV 150.79	64.7	75.0	75.79
KSOL	LIC 255B	San Francisco	CA 145.63	224.7	69.0	76.63
KCVRFM	LIC 255A	Columbia	CA 108.25	132.0	31.0	77.25
KBNF	LIC 255C	Chester	CA 172.69	7.5	95.0	77.69
KCMY.C	CP -N 256C3	Gardnerville-minden	NV 128.82	76.1	42.0	86.82
KZST	LIC 261A	Santa Rosa	CA 124.82	256.3	31.0	93.82
KCMY	LIC-D 256A	Gardnerville-minden	NV 128.82	76.1	31.0	97.82
KCIV	LIC 260B	Mount Bullion	CA 169.64	139.0	69.0	100.64
KTOR	LIC 259A	Westwood	CA 173.20	7.2	72.0	101.20
AL259	RSV 259A	Westwood	CA 173.20	7.2	72.0	101.20
KSOL	LIC-D 256B	Santa Cruz	CA 182.16	195.7	69.0	113.16
KUNR	LIC 204C	Reno	NV 150.90	64.7	29.0	121.90
KNNN	LIC-N 257C2	Shasta Lake City	CA 242.22	334.6	106.0	136.22
KMPO	LIC 204B	Modesto	CA 169.64	139.0	15.0	154.64

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TABLE

Distance to the 60dBu (50,50) contour for Prop Ch 258A at Citrus Heights

N. Lat. = 38 38 37 W. Lng. = 121 05 27

HAAT and Distance to Contour - FCC Method - 30 Arc Sec.

Azi.	AV EL	HAAT	dBk	60-F5
------	-------	------	-----	-------

000	202.0	84.0	7.78	26.06
045	374.8	-88.8	7.78	15.75
090	346.5	-60.5	7.78	15.75
135	219.2	66.8	7.78	23.49
180	94.5	191.5	7.78	38.15
225	77.7	208.3	7.78	39.46
270	66.4	219.6	7.78	40.30
315	106.2	179.8	7.78	37.18

Ave El= 185.93 M HAAT= 100.07 M AMSL= 286 M

Area and population calculated with 360 radials:

60 dBu/.5 Area by numeric integration= 3098.27 Sq km

70 dBu/.5 Population using PL 94-171 (Group Block Resolution): 513,466

60 dBu/.5 Population using PL 94-171 (Group Block Resolution): 1,394,201.

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TABLE
Distance to the 60dBu (50,50) contour for current KLV5 Ch 257B1
(licensed facility) at Grass Valley

N. Lat. = 39 16 33 W. Lng. = 120 53 49

HAAT and Distance to Contour - FCC Method - 30 Arc Sec.

KLV5 , Educational Media Foundation , BLED20021003ABA
Azi. AV EL HAAT dBk 60-F5

000	1093.2	66.8	11.14	27.96
045	1116.4	43.6	11.14	23.06
090	1263.7	-103.7	11.14	19.37
135	1031.0	129.0	11.14	37.84
180	813.0	347.0	11.14	55.61
225	876.3	283.7	11.14	51.41
270	874.5	285.5	11.14	51.53
315	872.4	287.6	11.14	51.67

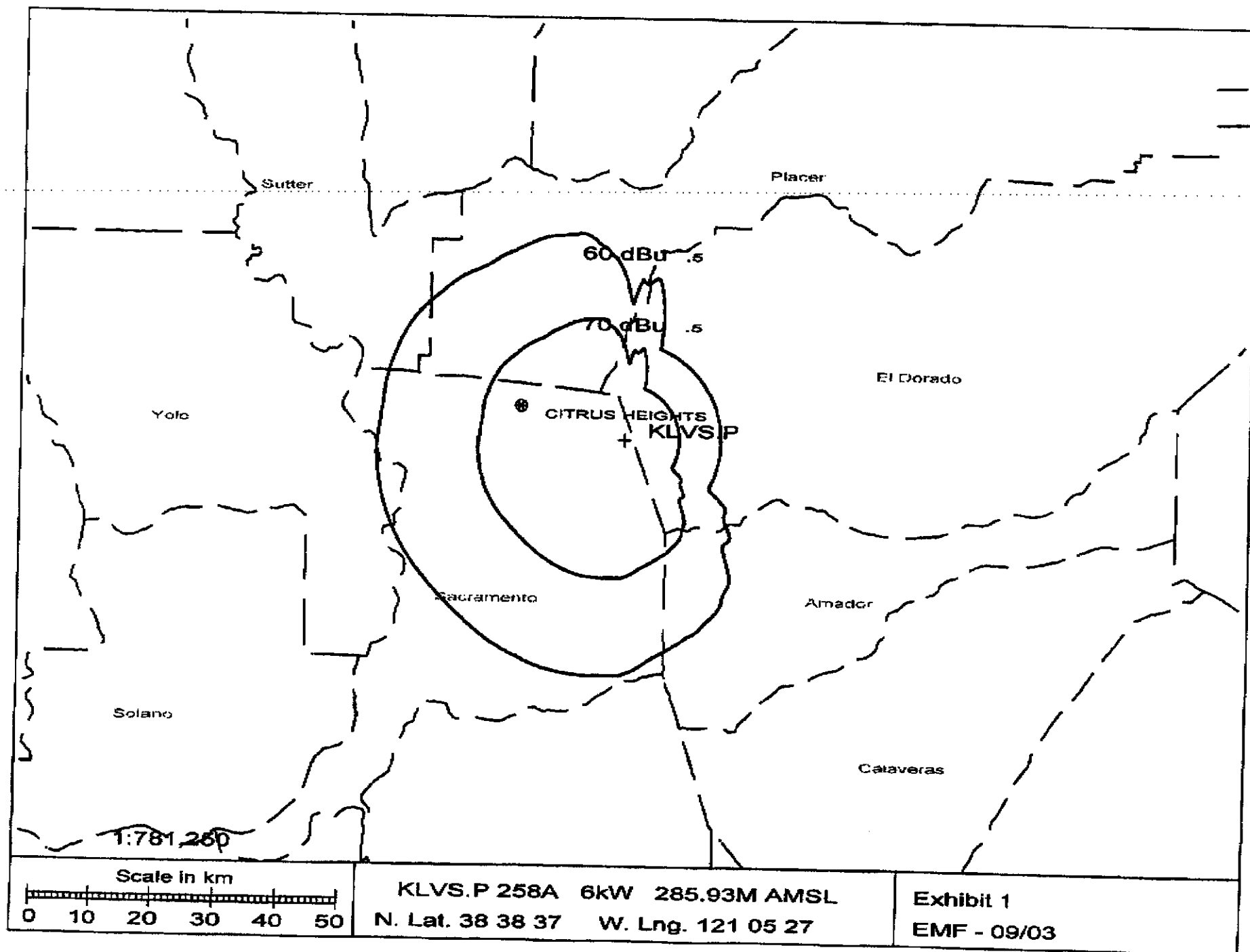
Ave El= 992.56 M HAAT= 167.44 M AMSL= 1160 M

Area and population calculated with 360 radials:

60 dBu/5 Area by numeric integration= 5349.99 Sq km.

70 dBu/5 Population using PL 94-171 (Group Block Resolution): 96,896

60 dBu/5 Population using PL 94-171 (Group Block Resolution): 182,403



CERTIFICATE OF SERVICE

I, Rhea Lytle, a secretary in the law offices of Shaw Pittman LLP, hereby certify that on this 12th day of October, 2004, a copy of the foregoing **"PETITION FOR RULE MAKING"** was sent via hand delivery, to the following:

Mr. John A. Karousos, Assistant Chief
Audio Division
Media Bureau
Federal Communications Commission
445 12th Street, S.W., Room 7-C485
Washington, DC 20554

Mr. Barthen Gorman
Audio Division
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445 12th Street, S.W., Room 3-A224
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Rhea Lytle